IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

OP.No. 15565 of 2002(C)

PETITIONER:

KONNI GRAMA PANCHAYATH,
REPRESENTED BY THE SECRETARY,
KONNI P.O., PATHANAMTHITTA.

BY ADV. SRI.R.PREM SANKAR

RESPONDENTS:
---

1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
PATHANAMTHITTA, DISTRICT.

3. TAHSILDAR, TALUK OFFICE,
KOZHENCHERRY.

4. RAJAN GEORGE.M., GEORGE COTTAGE,
MANNIKOIKAL, KONNI.

5. CICILY THOMAS,
AGED 32 YEARS, W/O.THOMAS DANIEL,
ILLIRIKKAL HOUSE, MANGARAM, KONNI.

(ADDL. R4 IS IMPLEADED AS PER ORDER DT.17.7.2002
IN C.M.P. NO.33945/2002.)

(ADDL. R5 IS IMPLEADED AS PER ORDER DT.22.2.2007
IN C.M.P. NO.32282/2002.)

R1 TO 3 BY GOVERNMENT PLEADER SMT.R.BINDU
R5 BY ADV. SRI.T.M.ABDUL LATHEEF

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/02/2007, ALONG WITH WPC NO. 36401 OF 2003, THE COURT ON 22/02/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.26365/2002 IN O.P. NO.15565/2002

DISMISSED:

22.2.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF RESOLUTION EMPOWERING THE SECRETARY TO REPRESENT THE PANCHAYAT DT.4.4.2002.

P2: TRUE COPY OF THE TAX RECEIPT ISSUED IN THE NAME OF PANCHAYAT DT.6.12.93.

P3: TRUE COPY OF THE REGISTER OF IMMOVABLE PROPERTY OF THE PANCHAYAT.

P4: TRUE COPY OF THE ORDER ISSUED BY R3 DT.30.3.2002.

P5: TRUE COPY OF THE STOP MEMO DT.1.4.2002.

P6: TRUE COPY OF THE NEWS PUBLISHED IN MALAYALA MANORAMA DAILY ON 8.4.2002.

P7: TRUE COPY OF THE ORDER DT.23.5.2002 ISSUED BY R2.

P8: TRUE COPY OF THE TAX RECEIPT DT.2.5.2003.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

O.P. No.15565 of 2002 &
W.P.(C) No.36401 of 2003

.....

Dated this the 22nd day of February, 2007.

JUDGMENT

Connected writ petitions pertain to an open area in the Konni Panchayat which is claimed by the Panchayat as it's property and found by the revenue authorities as Government puramboke. O.P. 15565/2002 is filed by the Panchayat maintaining the stand that it originally belonged to the Panchayt and is shown as Government puramboke only in resurvey. Claim of the petitioner in W.P.(C) 36401/2003 is that the land is utilised by his family members and an application for assignment is filed by the petitioner's sister-in-law. On going through Ext.P5 produced in W.P. 36401/2003 I find the Collector has entered a clearcut finding that the land in question is an open puramboke land used for vehicle parking and on the one side of the land, lot of shops are located. The Collector has even prohibited the Panchayat from constructing proposed stage in the land stating that it is required for parking and used by public. In view of the findings by the Collector, the claim of anybody for exclusive assignemnt is untenable. It makes no difference, whether the land be owned by Panchayat or Government, so far as it is to be used for public purpose and space for

parking is necessarily required. Moreover, since several shops are located in the area, space for parking is all the more required for people who come for shopping and for the shop owners to bring goods vehicle for loading and unloading. If the area is used for parking, I feel the Panchayat should collect parking fees and maintain it properly. However, if the petitioner in W.P.(C) 36401/2003 wants to lay pipeline for taking water connection, the Revenue or Panchayat authorities should permit laying of underground pipeline which will no way affect the use of the land for parking or for any other purpose. However, the applicant after laying pipeline should restore the land to it's original shape. The writ petitions are disposed of with the above observations and directions.

C.N.RAMACHANDRAN NAIR
Judge

pms